

IN THE SENATE OF THE UNITED STATES.

MARCH 16, 1880.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1058.]

*The Committee on Military Affairs, to whom was referred the bill (S. 1058) for the relief of Walker A. Newton, have had the same under consideration, and beg leave to submit the following report:*

Lieutenant Newton entered the service of the United States, at the age of 17, March 10, 1865, as first lieutenant Company K, Fortieth New Jersey Volunteers, and was honorably mustered out July 13, 1865. He was appointed second lieutenant in the Thirty-fourth Infantry August 10, 1867; served with his company at Holly Springs to October 27, 1868, during part of that time performing the duties of acting assistant quartermaster and assistant commissary of subsistence of his post. He was stationed at New Orleans, La., until November 4, 1868, and at Granada, Miss., until December 5, 1868; on leave of absence and permission to delay joining his company to January, 1869; and was, on the 12th of April, 1869, placed on waiting orders by General Order No. 4, Headquarters Sixteenth Infantry.

While stationed at New Orleans he was charged with having sold two sets of pay accounts for one month, and for this offense he was ordered to be arrested and to be tried by court-martial. On this point a great deal might be said, but the facts in brief are:

1. He was never arrested or tried by court-martial on this charge, although he sought repeatedly to have that trial for the purpose of vindicating himself.

2. There is no substantial proof before the committee showing that he intentionally sold two sets of pay accounts for the same month, but there seems every reason to believe that it was partly caused by mistake while he was sick in New Orleans.

Your committee, therefore, are of opinion that this charge is not substantiated by the true facts of the case as shown by the papers filed with the bill.

Now, as to the charge of desertion. After a very full and careful examination of the documents furnished by the War Department, the committee are of the opinion that there is no valid ground upon which such an ignominious charge of this kind can be based. That he was perhaps somewhat careless and regardless as to the responsibilities of his position there can be no doubt, but when his years are considered—being but a mere boy—it could not have been expected that

he should have the foresight and understanding of an old and experienced soldier, and his dismissal from the Army with the charge of desertion appended to his record is, to say the least, too severe, harsh, and somewhat hasty, particularly when both sides of the case are looked into impartially; and your committee are not altogether sure that he alone was to blame, nor that all the faults can be laid at his door.

That the order dismissing him was undoubtedly issued under a peculiar misapprehension the following indorsement upon the brief of the counsel for Lieutenant Newton by the Secretary of War will show :

WAR DEPARTMENT, December 10, 1879.

I have examined this brief as well as the papers in the case of Lieutenant Newton, and my conclusion is that he was never a deserter, and that the order dismissing him as such was issued under a misapprehension. His relief, however, must come from Congress.

I recommend him to apply to that by petition, setting forth the facts in his case.

GEO. W. MCCRARY,  
Secretary of War.

The following is a letter from the Secretary of War addressed to Lieutenant Newton:

WAR DEPARTMENT,  
Washington City, December 11, 1879.

SIR: I have received from the President your petition for the setting aside of the order dropping you from the rolls of the Army as second lieutenant Thirty-fourth Infantry, and have considered same, in connection with the brief of your counsel and the papers on file in this department; and my conclusion is that you were wrongfully reported a deserter, and that the order dismissing you as such was issued under a misapprehension.

Relief, however, can only come from Congress, to which body it is suggested you make application by petition, setting forth the facts in the case.

The papers on file here will be furnished to Congress upon application being made therefor.

Very respectfully,

GEO. W. MCCRARY,  
Secretary of War.

WALKER A. NEWTON, Esq.,  
Care of Mr. T. W. Neill, Attorney, Philadelphia, Pa.

Your committee, therefore, beg leave to report the bill back favorably to the Senate, and recommend its passage with the following amendment: Strike out the words, beginning in line 7, "and that Walker A. Newton be, and he is hereby, declared to be an officer of infantry, awaiting orders since August 20, 1869, and honorably entitled to be so regarded and recognized."